

REMARKS - General

Applicants have rewritten all 3 independent claims to define the invention more particularly, to overcome the technical rejections, and to define the invention patentably over the prior art.

New Matter

Applicants respectfully submit that the drawings, specification, and claims as presently presented do not contain new matter. First, a recessed channel as part of the container was disclosed in the original specification. The original drawings show the recessed channel as part of the closure. This is merely reversing the essential working parts. Also, applicants contend it would be obvious to one skilled in the art to determine the configuration and location of the recessed channel as part of the container based on its configuration and location as part of the closure. Secondly, a spout was also disclosed in the original specification. The shape of the spout is immaterial to the function of the instant invention. The shapes disclosed in the current drawings are the same shapes as shown in the prior art disclosed in the original specification. Please note - the shape of the spout in figure 2 is a cross-sectional view of the spout shown in the two US Patents disclosed in the original specification. Third, the phrase "thus extending said outlet passage" which is being added to the specification per this amendment is intrinsic to the statements "a spout with a through hole which would provide for communication between the end of the spout and the fluid exit" and "The outlet passage has two ends, the fluid entrance and the fluid exit" both which were disclosed in the original specification. Finally, the container having a corresponding recessed channel was also disclosed in the original specification. Applicants contend it would be obvious to one skilled in the art to determine the configuration and location of the corresponding recessed channel in the container.

Independent Claims Overcome Prior Art of Record

All 3 independent claims have been rewritten to recite novel structure. Specifically, the claims disclose a container and closure with an integrated outlet passage of sufficient volume to prevent the contained liquid from reaching the outer end of the outlet passage when the container is inverted. Furthermore, the apparatus as claimed relies on liquid displacement from the container into the outlet passage to create a partial vacuum within the container, thus making the apparatus leak-proof. None of the prior art of record disclose such a structure.

Telephonic Interview Summary

The substance of the telephonic interview conducted on November 22nd, 2005 included new matter discussions related to multiple recessed channels on the container and/or closure, recessed channels on the container, and the closure having a spout. Mr. Freeman indicated the shape of the spout is not relevant to the invention. It was suggested by the examiner to depict all spouts disclosed in the original specification along with a statement indicating the shape of the spout is immaterial to the invention. Mr. Freeman also indicated the volume of the outlet passage is pertinent to the invention. It was suggested by the examiner an affidavit or declaration under 37CFR 1.132 be filed with a response discussing the criticality of the volume of the outlet passage.

Declaration Under 37 CFR § 1.132

Applicants have included a declaration under 37 CFR § 1.132 with this response.

The Rejection of Claims Under 35 USC § 112

Claims 21, 24-28, 31-35, and 38-46 were rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. Independent claims 21, 28, and 35 have been amended to include only subject matter which was described in the original specification, thus they comply with the written description requirement. The remaining claims are all dependent upon either claim 21, 28, or 35 and

therefore comply with the written description requirement as well.

Claims 21, 24-28, 31-35, and 38-46 were rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. Independent claims 21, 28, and 35 have been amended to enable one skilled in the art to make and/or use the invention and therefore they comply with the enablement requirement. The remaining claims are all dependent upon either claim 21, 28, or 35 and therefore comply with the enablement requirement as well.

Claims 27, 34, and 40 were rejected under 35 U.S.C. 112, second paragraph, as being indefinite. These claims have been amended to particularly point out and distinctly claim only subject matter originally disclosed as the invention.

Conclusion

Applicants respectfully submit the structure of claims 21, 28, and 35 as amended is novel and unanticipated by the prior art. Applicants propose the claims all define patentably over the prior art, therefore they submit that this application is now in condition for allowance, which action they respectfully solicit.

Very respectfully,


Mark A. Freeman


Timothy R. Stringer